



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N019; FXES11120100000–167–FF01E00000]

Draft Programmatic Candidate Conservation Agreement with Assurances, Draft Environmental Assessment, and Receipt of Application for Enhancement of Survival Permit for the Fisher in Western Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Receipt of application; notice of availability and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), received an application from the Washington Department of Fish and Wildlife (WDFW) for an enhancement of survival (EOS) permit under the Endangered Species Act of 1973, as amended (ESA). The permit application includes a draft programmatic candidate conservation agreement with assurances (CCAAs) for the fisher in western Washington. The Service also announces the availability of a draft environmental assessment (EA) addressing the draft CCAA and issuance of the requested EOS permit in accordance with the National

Environmental Policy Act of 1969, as amended (NEPA). We invite comments from all interested parties on the application, the draft CCAA, and the draft EA.

DATES: To ensure consideration, written comments must be received from interested parties by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the “Fisher CCAA.”

- *Internet:* You may view or download copies of the draft CCAA and the draft EA and obtain additional information on the Internet at <http://www.fws.gov/wafwo/>.
- *Email:* wfwocomments@fws.gov. Include “Fisher CCAA” in the subject line of the message or comments.
- *U.S. Mail:* Tim Romanski, U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office; 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.
- *In-Person Drop-off, Viewing or Pickup:* Please call 360–753–5823 to make an appointment (necessary for viewing or picking up documents only) during normal business hours at the U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office; 510 Desmond Drive SE, Suite 102; Lacey, WA 98503. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Tim Romanski, Conservation Planning and Hydropower Branch Manager, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360–753–5823. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We received an application from the Washington Department of Fish and Wildlife (WDFW) for an enhancement of survival (EOS) permit under section 10(a)(1)(A) of the ESA for incidental take of the fisher (*Pekania pennanti*), a species currently considered a candidate for listing as threatened or endangered under the ESA. The permit application includes a draft programmatic candidate conservation agreement with assurances (CCAAs) for the fisher in western Washington. The Service also announces the availability of a draft environmental assessment (EA) addressing the draft CCAA and issuance of the requested EOS permit in accordance with NEPA (42 U.S.C. 4321 *et seq.*). We invite comments from all interested parties on the application, the draft CCAA, and the draft EA.

The application includes a CCAA covering fisher and its habitat on private lands in western Washington. The Service and WDFW prepared the CCAA to provide non-Federal landowners with the opportunity to voluntarily conserve the fisher and its habitat while carrying out specific land management activities commonly practiced on forest lands, as defined in the Washington State Forest Practices Act as of February 1, 2015. Covered activities include but are not limited to timber harvest, reforestation, road and

trail construction, water crossing structure construction, and other forest practice hydraulic projects, transport of timber and rock, site preparation, collection of minor forest products, fire suppression, and recreation, as defined in the draft CCAA.

Background

Private and other non-Federal property owners are encouraged to enter into CCAAs, in which they voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing under the ESA, candidates for listing, or species that may become candidates or proposed for listing. EOS permits are issued to applicants in association with approved CCAAs to authorize incidental take of the covered species from covered activities, should the species become listed. Through a CCAA and its associated EOS permit, the Service provides assurances to property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met.

Application requirements and issuance criteria for EOS permits for CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d), respectively. See also our joint policy on CCAAs, which we published in the **Federal Register** with the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (64 FR 32726; June 17, 1999).

On April 8, 2004, the Service published a 12-month status review (69 FR 18769) finding that listing the West Coast Distinct Population Segment (DPS) of fisher as threatened or endangered under the ESA (16 U.S.C. 1538) was warranted, but precluded

by higher priority actions. On October 7, 2014, we published a proposed rule (79 FR 60419) to list the West Coast DPS of fisher as threatened under the ESA. Due to substantial disagreement regarding available information, the Service issued a 6-month extension to collect and review additional information and make a final determination (80 FR 19953). A regulation implementing the proposed rule or a notice that the proposed regulation is being withdrawn will be issued no later than April 7, 2016. In anticipation of the potential listing of fisher under the ESA, WDFW requested assistance from the Service in developing a CCAA on behalf of private landowners in western Washington.

Proposed Action

The Proposed Action Alternative is the issuance of the requested EOS permit with a 20-year term based on WDFW's commitment to implement the proposed CCAA including issuance of Certificates of Inclusion (CI) to participating non-Federal landowners. The proposed CCAA would implement conservation measures that contribute to the recovery of the fisher. Take authorization would become effective if the species becomes listed, as long as the enrolled landowner is in compliance with the terms and conditions of the CCAA, CI, and the EOS permit. The CCAA, the EOS permit, and the CIs would provide incentives for non-Federal landowners to participate in conservation efforts expected to support reintroduction of the fisher within the western portions of its historical range in Washington.

National Environmental Policy Act Compliance

Approval of a programmatic CCAA and issuance of the associated EOS permit are Federal actions that trigger the need for compliance with NEPA. Pursuant to NEPA, we prepared a draft EA to analyze the environmental impacts related to the issuance of the requested EOS permit and implementation of the associated programmatic CCAA. The EA analyses two alternatives: A “No-action” alternative, and the proposed action.

No-action alternative: Under the No-action alternative, the Service would not issue the requested EOS permit and the proposed CCAA would not be implemented. Under this alternative, WDFW would not enroll landowners in the CCAA and no voluntary conservation measures would be implemented. WDFW would likely continue their efforts to recover fishers in the State, focusing on the protection and monitoring of previously reintroduced individuals. Non-Federal landowners would not receive assurances that additional conservation measures or any additional land, water, or resource use restrictions could be required if the covered species becomes listed as threatened or endangered under the ESA.

Proposed action alternative: The proposed action alternative is a programmatic approach, in which the Service would issue the requested EOS permit with a 20-year term to WDFW. The WDFW would implement the proposed CCAA including issuance of CIs to participating non-Federal landowners. The proposed CCAA provides conservation measures that would contribute to the recovery of the fisher while providing coverage exempting take that may occur incidental to activities covered under the CCAA if the species becomes listed.

Public Comments

You may submit your comments by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, opinions, or suggestions from the public on our proposed Federal action, including identification of any other aspects of the human environment not already identified in the EA pursuant to NEPA regulations at 40 CFR 1506.6. Further, we specifically solicit information regarding the adequacy of the draft CCAA pursuant to the requirements for permits at 50 CFR parts 13 and 17, and information and comments regarding the following issues:

1. The direct, indirect, and cumulative effects that implementation of the CCAA could have on endangered and threatened species;
2. Other reasonable alternatives consistent with the purpose of the proposed CCAA as described above, and their associated effects;
3. Measures that would minimize and mitigate potentially adverse effects of the proposed action;
4. Identification of any impacts on the human environment that should have been analyzed in the draft EA pursuant to NEPA;
5. Other plans or projects that might be relevant to this action;
6. The proposed term of the enhancement of survival permit; and
7. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address,

or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we used in preparing the draft EA, will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

After completion of the EA based on consideration of public comments, we will determine whether approval and implementation of the draft programmatic CCAA warrants a finding of no significant impact or whether an environmental impact statement should be prepared pursuant to NEPA. We will evaluate the programmatic CCAA, the permit application, associated documents, and any comments we receive to determine if the permit application meets the criteria for issuance of an EOS permit under section 10(a)(1)(A) of the ESA. We will also evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will consider the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an EOS permit to WDFW. We will not make the final NEPA and permit decisions until after the end of the 30-day

public comment period described in this notice, and we will fully consider all comments we receive during the public comment period.

If we determine that the permit issuance requirements are met, the Service will issue an EOS permit to WDFW. The WDFW would then begin enrolling non-Federal landowners that agree to implement the actions described in the CCAA in order to receive coverage for incidental take of fisher in western Washington under the WDFW EOS permit if the species becomes listed under the ESA.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

Dated: February 10, 2016

Stephen Zylstra
Acting Deputy Regional Director,
Pacific Region, U. S. Fish and Wildlife Service,
Portland, Oregon.

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